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House File 160

January 30, 1947.
Agriculture 1.

By WATSON, ROBB, AINSWORTH,
BAKER.

A BILL FOR

An Act relating to the distribution, sale or transportation of adulterated or misbranded insecticides, fungicides, rodenticides, and other economic poisons and devices; regulating traffic therein; providing for registration and examination of such materials, imposing penalties, and for other purposes.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. Chapter two hundred six (206), Code 1946, is
2 hereby repealed and the following enacted in lieu thereof:

3 Definitions. For the purpose of this chapter:

4 1. The term "economic poison" means any substance or mixture
5 of substance intended for preventing, destroying, repelling, or
6 mitigating any insects, rodents, fungi, weeds, or other forms
7 of plant or animal life or viruses excepting viruses on or in
8 living man or other animals, which the secretary shall declare
9 to be pests.

10 2. The term "device" means any instrument or contrivance
11 intended for trapping, destroying, repelling, or mitigating
12 insects or rodents or destroying, repelling, or mitigating fungi
13 or weeds, or such other pests as may be designated by the
14 secretary, but not including equipment used for the application
15 of economic poisons nor of rodent traps when sold separately

16 therefrom.

17 3. The term "insecticides" means any substance or mixture
18 of substances intended for preventing, destroying, repelling,
19 or mitigating any insects which may be present in any environment
20 whatsoever.

21 4. The term "fungicide" means any substance or mixture of
22 substances intended for preventing, destroying, repelling, or
23 mitigating any fungi.

24 5. The term "rodenticide" means any substance or mix-
25 ture of substances intended for preventing, destroying,
26 repelling, or mitigating rodents or any other vertebrate
27 animals which the secretary shall declare to be pests.

28 6. The term "herbicide" means any substance or mix-
29 ture of substances intended for preventing, destroying,
30 repelling, or mitigating any weed.

31 7. The term "insect" means any of the numerous small
32 invertebrate animals generally having the body more or less
33 obviously segmented, for the most part belonging to the
34 class Insecta, comprising six-legged, usually winged forms,
35 as, for example, beetles, bugs, bees, flies, and to other
36 allied classes of Arthropoda whose members are wingless and
37 usually have more than six legs, as, for example, spiders,
38 mites, ticks, centipedes, and wood lice.

39 8. The term "fungi" means all non-chlorophyll-bearing
40 Thallophyta (that is, all non-chlorophyll-bearing plants
41 of a lower order than mosses and liverworts) as, for example,

42 rusts, smuts, mildews, molds, yeasts, and bacteria, except
43 those on or in living man or other animals.

44 9. The term "weed" means any plant which grows where
45 not wanted.

46 10. The term "ingredient statement" means a statement
47 of the name and percentage of each active ingredient, to-
48 gether with the total percentage of the inert ingredients,
49 in the economic poison.

50 11. The term "active ingredient" means any ingredient
51 which will prevent, destroy, repel, or mitigate insects,
52 fungi, rodents, weeds, or other pests.

53 12. The term "inert ingredient" means an ingredient
54 which is not an active ingredient.

55 13. The term "antidote" means the most practical im-
56 mediate treatment in case of poisoning and includes first
57 aid treatment.

58 14. The term "person" means any individual, partner-
59 ship, association, corporation, or organized group of
60 persons whether incorporated or not.

61 15. The term "secretary" means the secretary of
62 agriculture.

63 16. The term "registrant" means the person registering
64 any economic poison pursuant to the provisions of this act.

65 17. The term "label" means the written, printed, or
66 graphic matter on, or attached to, the economic poison or
67 device, or the immediate container thereof, and the outside

68 container or wrapper of the retail package, if any there be,
69 of the economic poison or device.

70 18. The term "labeling" means all labels and other
71 written, printed, or graphic matter:

72 a. Upon the economic poison or device or any of its
73 containers or wrappers;

74 b. Accompanying the economic poison or device at any
75 time;

76 c. To which reference is made on the label or in
77 literature accompanying the economic poison or device,
78 except when accurate, nonmisleading reference is made to
79 current official publications of the United States Depart-
80 ments of Agriculture or Interior, the United States Public
81 Health Service, state experiment stations, state agricultural
82 colleges, or other similar federal institutions or official
83 agencies of this state or other states authorized by law to
84 conduct research in the field of economic poisons.

1 Sec. 2. "Adulterated" defined. The term "adulterated"
2 shall apply to any economic poison if its strength or purity
3 falls below the professed standard or quality as expressed
4 on labeling or under which it is sold, or if any substance
5 has been substituted wholly or in part for the article, or
6 if any valuable constituent of the article has been wholly
7 or in part abstracted.

1 Sec. 3. False branding. The term "misbranded" shall
2 apply to any economic poison or device if its labeling bears

3 any statement, design, or graphic representation relative
4 thereto or to its ingredients which is false or misleading
5 in any particular.

1 Sec. 4. Misbranded poisons. The term "misbranded"
2 shall apply to any economic poison as follows:

3 1. If it is an imitation of or is offered for sale
4 under the name of another economic poison;

5 2. If its labeling bears any reference to registration
6 under this chapter;

7 3. If the labeling accompanying it does not contain
8 instructions for use which are necessary and, if complied
9 with, adequate for the protection of the public;

10 4. If the label does not contain a warning or cautionary
11 statement which may be necessary and, if complied with, ade-
12 quate to prevent injury to living man and other vertebrate
13 animals;

14 5. If the label does not bear an ingredient statement
15 on that part of the immediate container and on the outside
16 container or wrapper, if there be one, through which the
17 ingredient statement on the immediate container can not be
18 clearly read, of the retail package which is presented or
19 displayed under customary conditions of purchase;

20 6. If any word, statement, or other information required
21 by or under the authority of this chapter to appear on the
22 labeling is not prominently placed thereon with such conspic-
23 uousness (as compared with other words, statements, designs,

24 or graphic matter in the labeling) and in such terms as to
25 render it likely to be read and understood by the ordinary
26 individual under customary conditions of purchase and use;
27 or

28 7. If in the case of an insecticide, fungicide, or
29 herbicide, when used as directed or in accordance with commonly
30 recognized practice, it shall be injurious to living man or
31 other vertebrate animals or vegetation, except weeds, to which
32 it is applied, or to the person applying such economic poison.

1 Sec. 5. Transportation and sales prohibited. It shall be
2 unlawful for any person to distribute, sell, or offer for sale
3 within this state or deliver for transportation or transport
4 in intrastate commerce or between points within this state
5 through any point outside this state any of the following:

6 1. Any economic poison which has not been registered
7 pursuant to the provisions of section 8 of this chapter, or
8 any economic poison if any of the claims made for it or any
9 of the directions for its use differ in substance from the
10 representations made in connection with its registration, or
11 if the composition of an economic poison differs from its
12 composition as represented in connection with its registration;
13 provided, that in the discretion of the secretary, a change
14 in the labeling or formula of an economic poison may be made
15 within a registration period without requiring reregistration
16 of the product.

17 2. Any economic poison unless it is in the registrant's

18 or the manufacturer's unbroken immediate container, and there
19 is affixed to such container, and to the outside container or
20 wrapper of the retail package, if there be one through which
21 the required information on the immediate container can not be
22 clearly read, a label bearing:

23 a. The name and address of the manufacturer,
24 registrant, or person for whom manufactured;

25 b. The name, brand, or trademark under which
26 said article is sold; and

27 c. The net weight or measure of the content
28 subject, however, to such reasonable variations as
29 the secretary may permit.

30 3. Any economic poison which contains any substance or
31 substances in quantities highly toxic to man, determined as
32 provided in section 9 of this chapter, unless the label shall
33 bear, in addition to any other matter required by this chap-
34 ter:

35 a. The skull and crossbones;

36 b. The word "poison" prominently, in red, on a
37 background of distinctly contrasting color; and

38 c. A statement of an antidote for the economic
39 poison.

40 4. The economic poison commonly known as standard lead
41 arsenate, basic lead arsenate, calcium arsenate, magnesium
42 arsenate, zinc arsenate, zinc arsenite, sodium fluoride,
43 sodium fluosilicate, and barium fluosilicate unless they

44 have been distinctly colored or discolored as provided by
45 regulations issued in accordance with this chapter, or any
46 other white powder economic poison which the secretary,
47 after investigation of and after public hearing on the
48 necessity for such action for the protection of the public
49 health and the feasibility of such coloration or discolora-
50 tion, shall, by regulation, require to be distinctly colored
51 or discolored; unless it has been so colored or discolored;
52 provided, that the secretary may exempt any economic poison
53 to the extent that it is intended for a particular use or
54 uses from the coloring or discoloring required or authorized
55 by this section if he determines that such coloring or dis-
56 coloring for such use or uses is not necessary for the pro-
57 tection of the public health.

58 5. Any economic poison which is adulterated or mis-
59 branded or any device which is misbranded.

1 Sec. 6. Altering labels or poisons. It shall be
2 unlawful for any person to detach, alter, deface, or des-
3 troy, in whole or in part, any label or labeling provided
4 for in this chapter or regulations promulgated hereunder,
5 or to add any substance to, or take any substance from, an
6 economic poison in a manner that may defeat the purpose of
7 this chapter.

1 Sec. 7. Pirating formulas. It shall be unlawful for
2 any person to use for his own advantage or to reveal, other
3 than to the secretary or proper officials or employees of

4 the state or to the courts of this state in response to a
5 subpoena, or to physicians, or in emergencies to pharmacists
6 and other qualified persons, for use in the preparation of
7 antidotes, any information relative to the formulas of pro-
8 ducts acquired by authority of section 8 of this chapter.

1 Sec. 8. Registration—fees. Any person, before selling
2 or offering for sale any economic poison for use as an in-
3 secticide, fungicide, herbicide, or rodenticide within this
4 state, shall annually file with the secretary an application
5 for registration of such economic poison giving the following
6 information:

7 1. The name and address of the manufacturer or dis-
8 tributor.

9 2. The name and brand, if any, of each product to be
10 registered, together with the ingredient statement in
11 accordance with subsection 10 of section 1 of this chapter.

12 Accompanying each registration application there shall
13 be filed a label of each product to be registered. If the
14 secretary finds that the product conforms to law he shall
15 issue a certificate of registration to the applicant. If
16 the application is denied the product shall not be sold or
17 offered for sale.

18 Every application for registration shall be accompanied
19 by an inspection fee of five dollars for each product regis-
20 tered up to and including five products from the same appli-
21 cant. Thereafter the fee shall be one dollar for each

22 product registered from said applicant during the same fiscal
23 year. In case the registration fee is paid by the manufacturer,
24 distributor, or any person other than the retailer, then in
25 that event nothing in this section shall be construed as
26 applying to the retailer. All registration fees collected
27 by the secretary shall be remitted to the state comptroller
28 for deposit in the state treasury to the credit of the general
29 fund.

30 Each registration shall expire June 30 following its
31 issuance and no registration shall be transferable. A
32 penalty of fifty percent of the registration fee shall be
33 imposed if certificate of registration is not applied for
34 on or before July 1 of each year, or within thirty days
35 after such economic poisons are first manufactured or sold
36 within the state.

1 Sec. 9. Determinations by secretary. The secretary
2 is authorized, after opportunity for a hearing:

3 1. To declare as a pest any form of plant or animal
4 life or virus which is injurious to plants, men, domestic
5 animals, articles, or substances;

6 2. To determine whether economic poisons are highly
7 toxic to man; and

8 3. To determine standards of coloring or discoloring
9 for economic poisons and to subject economic poisons to the
10 requirements of subsection 4 of section 5 of this chapter.

1 Sec. 10. Rules and regulations. The secretary is auth-

2 orized, after due public hearing, to make appropriate rules
3 and regulations for carrying out the provisions of this
4 chapter, including rules and regulations providing for the
5 collection and examination of samples of economic poisons or
6 devices.

1 Sec. 11. Uniformity of rules. In order to avoid confu-
2 sion endangering the public health, resulting from diverse
3 requirements, particularly as to the labeling and coloring
4 of economic poisons, and to avoid increased costs to the
5 people of this state due to the necessity of complying with
6 such diverse requirements in the manufacture and sale of such
7 poisons, it is desirable that there should be uniformity
8 between the requirements of the several states and the
9 federal government relating to such poisons. To this end
10 the secretary is authorized, after due public hearing, to
11 adopt by regulation such regulations, applicable to and in
12 conformity with the primary standards established by this
13 chapter, as have been or may be prescribed by the United
14 States Department of Agriculture with respect to economic
15 poisons.

1 Sec. 12. Enforcement.

2 1. The examination of economic poisons or devices
3 shall be made under the direction of the secretary for the
4 purpose of determining whether they comply with the require-
5 ments of this chapter. If it shall appear from such examina-
6 tion that an economic poison or device fails to comply with

7 the provisions of this chapter, and the secretary contemplates
8 instituting criminal proceedings against any person, the
9 secretary shall cause appropriate notice to be given to such
10 person. Any person so notified shall be given an opportunity
11 to present his views, either orally or in writing, with
12 regard to such contemplated proceedings and if thereafter
13 in the opinion of the secretary it shall appear that the
14 provisions of the chapter have been violated by such person,
15 then the secretary shall refer the facts to the county attor-
16 ney for the county in which the violation shall have occurred
17 with a copy of the results of the analysis or the examination
18 of such article; provided, however, that nothing in this
19 chapter shall be construed as requiring the secretary to
20 report for prosecution or for the institution of libel
21 proceedings minor violations of the chapter whenever he
22 believes that the public interests will be best served by
23 a suitable notice of warning in writing.

24 2. It shall be the duty of each county attorney to
25 whom any such violation is reported to cause appropriate
26 proceedings to be instituted and prosecuted in the proper
27 court without delay.

28 3. The secretary shall, by publication in such manner
29 as he may prescribe, give notice of all judgments entered
30 in actions instituted under the authority of this chapter.

1 Sec. 13. Exemptions. The penalties provided for
2 violations of section 5 of this chapter shall not apply to:

3 1. Any carrier while lawfully engaged in transporting
4 an economic poison within this state, if such carrier shall,
5 upon request, permit the secretary or his designated agent
6 to copy all records showing the transactions in and movemen
7 of the articles ;

8 2. Public officials of this state and the federal
9 government engaged in the performance of their official
10 duties ;

11 3. The manufacturer or shipper of an economic poison
12 for experimental use only as follows :

13 a. By or under the supervision of an agency
14 of this state or of the federal government authorized
15 by law to conduct research in the field of economic
16 poisons, or

17 b. By others if the economic poison is not sold
18 and if the container thereof is plainly and conspicu-
19 ously marked "For experimental use only—Not to be
20 sold", together with the manufacturer's name and ad-
21 dress ; providing, however, that if a written permit has
22 been obtained from the secretary, economic poisons may
23 be sold for experiment purposes subject to such re-
24 strictions and conditions as may be set forth in the
25 permit.

1 Sec. 14. Exports. No article shall be deemed in viola-
2 tion of this chapter when intended solely for export to a
3 foreign country, and when prepared or packed according to 1

4 specifications or directions of the purchaser. If not so
5 exported all the provisions of this chapter shall apply.

1 Sec. 15. Penalties.

2 1. Any person violating subsection 1 of section 5 of
3 this chapter shall be guilty of a misdemeanor and upon con-
4 viction shall be fined not more than one hundred dollars.

5 2. Any person violating any provision of this chapter
6 other than subsection 1 of section 5 shall be guilty of a
7 misdemeanor and upon conviction shall be fined not more than
8 one hundred dollars for the first offense and upon conviction
9 of a subsequent offense shall be fined not more than five
10 hundred dollars; provided, that any offense committed more
11 than five years after a previous conviction shall be consid-
12 ered a first offense; and provided, further, that in any
13 case where a registrant was issued a warning by the secretary
14 pursuant to the provisions of this chapter, such registrant
15 shall upon conviction of a violation of any provision of
16 this chapter other than subsection 1 of section 5 be fined
17 not more than one thousand dollars, or imprisoned for not
18 more than one year, or be subject to both such fine and
19 imprisonment; and the registration of the article with
20 reference to which the violation occurred shall terminate
21 automatically. An article the registration of which has
22 been terminated may not again be registered unless the
23 article, its labeling, and other material required to be
24 submitted appear to the secretary to comply with all the

25 requirements of this chapter.

26 3. Notwithstanding any other provisions of this sec-
27 tion, in case any person, with intent to defraud, uses or
28 reveals information relative to formulas of products acquired
29 under authority of section 8 of this chapter, he shall be
30 fined not more than one thousand dollars or imprisoned for
31 not more than one year, or both.

1 Sec. 16. Seizures. Any economic poison or device that
2 is unlawfully distributed, sold, or offered for sale within
3 this state or delivered for transportation or transported in
4 intrastate commerce or between points within this state
5 through any point outside this state shall be liable to be
6 proceeded against in any district court in any county of
7 the state where it may be found and seized under the pro-
8 visions of chapter seven hundred fifty-one (751), Code,
9 1946, for condemnation.

10 In case of an economic poison such seizure shall
11 apply:

12 1. If it is adulterated or misbranded;

13 2. If it has not been registered under the provisions
14 of section 8 of this chapter;

15 3. If it fails to bear on its label the information re-
16 quired by this chapter.

17 4. If it is a white powder economic poison and is not
18 colored as required under this chapter.

1 Sec. 17. Delegation of duties. All authority vested

2 in the secretary by virtue of the provisions of this chapter
 3 may with like force and effect be executed by such employees
 4 of the department of agriculture as the secretary may from
 5 time to time designate for said purpose.

1 Sec. 18. Co-operation. The secretary is authorized and
 2 empowered to co-operate with, and enter into agreements with,
 3 any other agency of this state, the United States Department
 4 of Agriculture, and any other state or agency thereof for the
 5 purpose of carrying out the provisions of this chapter and
 6 securing uniformity of regulations.

1 Sec. 19. Title. This chapter may be cited as the
 2 insecticide, fungicide and rodenticide act of 1947.

1 Sec. 20. Separability. If any provision of this chapter
 2 is declared unconstitutional, or the applicability thereof
 3 to any person or circumstance is held invalid, the con-
 4 stitutionality of the remainder of this chapter and the
 5 applicability thereof to other persons and circumstances
 6 shall not be affected thereby.

EXPLANATION OF H. F. 160

Chapter 206, Code 1946, is inadequate in that it covers only insecticides, and does not cover the new chemicals such as D.D.T., etc.

New chemicals have been and are being introduced, as insecticides, fungicides, herbicides and rodenticides, that are not covered by our present law.

The Council of State Government saw the need for a uniform economic poison law and prepared a bill to this end.

This bill was rewritten by the Iowa Attorney General's office to fit our State requirements, and this is the bill being offered.

The bill as submitted follows the uniform bill prepared by the Council of State Government, except for two requirements as follows:

Section (1) subsection 10 leaves no option on ingredient statement. I believe you will agree that the consumer is entitled to know the percentage of active ingredients in an economic poison, so as to know how heavy a spray to apply, and also to be able to determine the value of the product for extermination purposes.

Section (1) subsection 2 exempts rodent traps (such as mouse and rat traps), from the requirements for registration as devices.

This bill as introduced would repeal Chapter 206, Code 1946, and substitute the above described bill in lieu thereof.